

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 2001-05

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-040-01

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

**For Filing Administrative
Regulations**

For Emergency
Regulations Only

Effective Date

Expiration Date

Governor's Signature

State Environmental Commission

Classification ☐ Proposed ☐ Adopted By Agency ☒ Temporary ☐ Emergency ☐

Brief description of action: **Petition 2001-05 (LCB R-040-01)** permanently amends NAC 445B.001 to 445B.395, the state air pollution control permitting program. The permanent regulation amends NAC 445B by creating and defining a new classification of operating permits. The new Class III permit will provide eligible sources (those emitting 5 tons or less of specific pollutants) a streamlined permitting process, which includes accelerated permit review and issuance and lower permitting fees. This regulation will provide regulatory relief for small quantity sources. NAC 445B.320, dealing with operating permit changes is amended to include additional language to require a detailed description of how increases and decreases will comply with the permit.

Authority citation other than 233B: NRS 445B.210 and 445B.300

Notice date: January 16, 2001, January 25, 2001 and January 30, 2001 (Temporary); August 20, August 29 and September 6, 2001 (Permanent)

Hearing date: May 10, 2001 (Temporary); September 18, 2001 (Permanent)

Date of Adoption of Agency: May 10, 2001 (Temporary); September 18, 2001 (Permanent)

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 2001-05 LCB File R-040-01
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445B. This permanent regulation deals with amendments to the air pollution control operating permit program.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 2001-05 (LCB File R-040-01), was noticed three (3) on January 16, January 25 and January 30, 2001 as a temporary regulation and August 20, August 29 and September 6, 2001 as a permanent regulation in the Las Vegas Review Journal and the Reno-Gazette-Journal newspapers. Regulatory workshops were conducted by the Nevada Division of Environmental Protection's Bureau of Air Quality on December 18, 2000 in Reno, December 19, 2000 in Las Vegas and December 21, 2000 in Elko. The temporary regulation was adopted by the State Environmental Commission on May 10, 2001 and as a permanent regulation on September 18, 2001. Additional workshops were held on September 4, 2001 in Caarson City. No oral or written comments opposing or supporting the regulation were received by the Commission during temporary and permanent adoption. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3118, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

(a)	Attended each hearing;	35
(b)	Testified at each hearing:	0
(c)	Submitted to the agency written comments:	0

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices and public workshops. No oral or written testimony was received that opposed or supported the regulation during temporary and permanent adoption were received. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted by the State Environmental Commission on September 18, 2001 with amendments.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Estimated economic effect of the regulation on the business which it is to regulate;

The regulated business community will see a positive beneficial effect by the reduction in the time and effort to prepared Class III permit applications and reduced fees for application, revision renewal and annual maintenance fees.

(b) Estimated economic effect on the public;

The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no additional cost to the Division of Environmental Protection for enforcement of these amendments.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The regulations are no more stringent than federal regulations.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The amendment does provide a new fee that reduces the amount currently paid by small quantity sources. The Division of Environmental Protection does not anticipate increased revenues from the new Class III permits, but rather an overall reduction in fees from Class II permits for affected businesses.

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**FILED PERMANENT REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

LCB File No. R040-01

Effective October 25, 2001

Explanation - Matter in *italics* is new; matter in brackets ~~to be omitted~~ is material to be omitted.

Authority: §§1-18, NRS 445B.210 and 445B.300.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3, and 4 of this regulation.

Sec. 2. *“Class III source” means a stationary source which is subject to the requirements set forth in NAC 445B.001 to 445B.395, inclusive, and sections 2, 3 and 4 of this regulation and:*

- 1. Which emits or has the potential to emit, individually or in combination, a total of not more than 5 tons per year of PM₁₀, NO_x, SO₂, VOC, and H₂S;*
- 2. Which emits less than 1,000 pounds of lead per year;*
- 3. Which is not subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive;*
- 4. Which is not subject to the requirements of 40 C.F.R. Part 60;*
- 5. Which is not subject to the requirements of 40 C.F.R. Part 61;*
- 6. Which is not a temporary source;*
- 7. Which is not located at or part of another stationary source; and*
- 8. Whose owner or operator:*
 - (a) Is not seeking a limitation on emissions to avoid the requirements of 40 C.F.R. Part 63; or*
 - (b) Is not required to obtain an operating permit to operate the stationary source solely to comply with NAC 445B.365 relating to surface area disturbances.*

Sec. 3. 1. *The owner or operator of a stationary source with a Class III operating permit may apply, on a form provided by the director, for a revision of the operating permit.*

- 2. An application for a revision of a Class III operating permit for a stationary source must include:*
 - (a) The name and address of the owner or operator of the stationary source;*
 - (b) The location of the stationary source;*
 - (c) A description of:*
 - (1) The existing emission units undergoing modification and the applicable control systems; and*
 - (2) The proposed modifications to those emission units;*
 - (d) A description of any proposed new emission units and applicable control systems;*
 - (e) The potential to emit for each proposed new and existing emission unit for each regulated air pollutant to which a standard applies; and*

(f) Any other information that the director determines is necessary to process the application and issue a revised Class III operating permit in accordance with NAC 445B.001 to 445B.395, inclusive, and sections 2, 3 and 4 of this regulation.

Sec. 4. 1. *If a stationary source operating under a Class II operating permit is a Class III source, as defined in section 2 of this regulation, the owner or operator of the stationary source may submit an application with the appropriate fee and obtain a Class III operating permit for the stationary source.*

2. *If a new stationary source is a Class III source, as defined in section 2 of this regulation, the owner or operator of the new stationary source may submit an application with the appropriate fee and obtain a Class III operating permit for the new stationary source. An operating permit must be obtained before commencing construction on a new stationary source.*

Sec. 5. NAC 445B.001 is hereby amended to read as follows:

445B.001 As used in NAC 445B.001 to 445B.395, inclusive, ***and sections 2, 3, and 4 of this regulation***, unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, ***and section 2 of this regulation*** have the meanings ascribed to them in those sections.

Sec. 6. NAC 445B.006 is hereby amended to read as follows:

445B.006 "Affected source" means a stationary source subject to the requirements relating to acid ~~rain~~ ***rain*** set forth in 42 U.S.C. §§ 7651-7651o, inclusive.

Sec. 7. NAC 445B.037 is hereby amended to read as follows:

445B.037 "Class II source" means any stationary source which is not subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive, but which is otherwise subject to the requirements of NAC 445B.001 to 445B.395, inclusive ~~and~~ ***and sections 2, 3 and 4 of this regulation. The term does not include a stationary source that is operating under a Class III operating permit issued pursuant to NAC 445B.001 to 445B.395, inclusive, and sections 2, 3 and 4 of this regulation.***

Sec. 8. NAC 445B.123 is hereby amended to read as follows:

445B.123 "Operating permit" has the meaning ascribed to it in NRS 445B.145. Unless otherwise specifically stated, the term includes a Class I, ~~and~~ ***a Class II and a Class III*** operating permit.

Sec. 9. NAC 445B.211 is hereby amended to read as follows:

445B.211 The abbreviations used in NAC 445B.001 to 445B.395, inclusive, ***and sections 2, 3 and 4 of this regulation*** have the following meanings:

Btu.....	British thermal unit
<i>C.F.R.</i>	<i>Code of Federal Regulations</i>
CO.....	carbon monoxide
CO ₂	carbon dioxide
°F.....	degree Fahrenheit
Hg.....	mercury
H ₂ O.....	water

H₂S.....hydrogen sulfide
 lb.....pound
 No_x.....nitrogen oxides
 O₂.....oxygen
 ppm.....parts per million
 SO₂.....sulfur dioxide

~~{C.F.R.....Code of Federal Regulations}~~
VOC.....volatile organic compound

Sec. 10. NAC 445B.281 is hereby amended to read as follows:

445B.281 1. Except as otherwise provided in NAC 445B.001 to 445B.395, inclusive, **and sections 2, 3 and 4 of this regulation**, any violation of the provisions of those sections is classified as a major violation, and a fine up to \$10,000 per day per violation may be levied.

2. For Class II **and Class III** sources, violations of subsections 3 and 4 of NAC 445B.232, subsection 8 of NAC 445B.252, subsection 2 of NAC 445B.265, paragraph (d) of subsection 1 of NAC 445B.275, and NAC 445B.331, 445B.365, 445B.381, 445B.382 and 445B.393 are classified as minor or lesser violations, unless there are four or more violations of any one of those sections by a person, occurring within a period of 60 consecutive months.

3. The schedule of fines for minor violations is as follows:

	First Offense	Second Offense	Third Offense
Subsection 3 or 4 of NAC 445B.232, reporting of excess emissions.....	\$125	\$250	\$500
Subsection 8 of NAC 445B.252, testing and sampling reporting.....	100	200	400
Subsection 2 of NAC 445B.265, reporting of monitoring systems.....	100	200	400
Paragraph (d) of subsection 1 of NAC 445B.275, recordkeeping, monitoring, reporting or compliance certification.....	50	100	200
NAC 445B.331, change of location.....	100	200	400
NAC 445B.365, fugitive dust.....	125	250	500
NAC 445B.381, open burning.....	50	100	200
NAC 445B.382, incinerator burning, equal to or less than 25 lbs per hour.....	50	100	200
greater than 25 lbs per hour.....	50	100	200
NAC 445B.365, fugitive dust.....	125	250	500
NAC 445B.393, odors.....	100	200	400

4. All minor violations become major violations upon the occurrence of the fourth violation of the same section within a period of 60 consecutive months.

Sec. 11. NAC 445B.287 is hereby amended to read as follows:

445B.287 1. Except as otherwise provided in subsection 2 and in NAC 445B.288, an operating permit or permit to construct is required for each stationary source and:

(a) If a stationary source is a Class I source, a revision of the operating permit or of the permit to construct is required pursuant to the requirements of NAC 445B.321 and 445B.322 before the stationary source may be modified.

(b) If a stationary source is a Class II source, a revision of the operating permit or of the permit to construct is required pursuant to the requirements of NAC 445B.3225 before the stationary source may be modified.

(c) If a stationary source is a Class III source, a revision of the operating permit is required pursuant to the requirements of section 3 of this regulation before the stationary source may be modified.

2. A Class I source is not subject to the provisions of paragraph (a) of subsection 1 if the source is not a major source, an affected source or a solid waste incineration unit required to obtain a permit pursuant to 42 U.S.C. §7429(e). For a Class I source which is not a major source and which subsequently becomes subject to a standard or other requirement under 42 U.S.C. §7411 or 7412, the administrator will determine whether to exempt the source from the requirement to obtain a Class I operating permit at the time that the new standard is adopted.

3. An operating permit or permit to construct may not be transferred from one owner or piece of equipment to another. An owner or operator may apply for an administrative amendment reflecting a change of ownership or the name of the stationary source for the effective time remaining on the original operating permit pursuant to NAC 445B.319.

4. For the purposes of this section, “permit to construct” means a document issued and signed by the director before November 1, 1995, certifying that:

- (a) Adequate empirical data for a stationary source has been received and constitutes approval of location; or
- (b) All portions of NAC 445B.300 to 445B.313, inclusive, and any other provisions of NAC 445B.001 to 445B.395, inclusive, have been complied with and constitutes approval of location and for construction.

Sec. 12. NAC 445B.291 is hereby amended to read as follows:

445B.291 ~~{1.}~~ An owner or operator of any stationary source that is not subject to the requirements of NAC 445B.289 or 445B.290 must submit an application for and obtain a Class II operating permit ~~{1.}~~ ***pursuant to this section or, if applicable, a Class III operating permit pursuant to section 4 of this regulation.*** For a proposed stationary source or a proposed modification to a stationary source that is not subject to the requirements of NAC 445B.289 or 445B.290, an owner or operator must file an application and obtain a Class II operating permit or a revision to an existing Class II operating permit, as appropriate, ***pursuant to this section or, if applicable, a Class III operating permit pursuant to section 4 of this regulation*** before commencing construction of the proposed stationary source ~~{or}~~ ***or*** the proposed modification.

~~{2. If an owner or operator of an existing stationary source that is not subject to the requirements of NAC 445B.289 or 445B.290 has not applied for and obtained an operating permit before the effective date of the program, he must file an application for an operating permit within 12 months after the effective date of the program. Filing such an application does not relieve the owner or operator of legal responsibility for his failure to obtain an operating permit pursuant to NAC 445B.300 or 445B.318, respectively, as these provisions existed before the effective date of the program.~~

- ~~3. The following provisions of NAC 445B.300 do not apply to Class II operating permits:~~
- ~~(a) Public notice;~~
 - ~~(b) Notice to the EPA and affected states;~~
 - ~~(c) Veto of the operating permit by the EPA; and~~
 - ~~(d) Petitions to the administrator.~~

Sec. 13. NAC 445B.300 is hereby amended to read as follows:

445B.300 1. Except as otherwise provided in this subsection and NAC 445B.303, within 60 calendar days after the date on which an application for a Class I operating permit or for the significant revision of such an operating permit is received, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine that the application is complete. Unless the director determines that the application is incomplete within 60 days after the date of receipt, the official date of submittal shall be deemed to be the date on which the director determines that the application is complete or 61 days after the date of receipt, whichever is earlier.

2. Except as otherwise provided in this subsection and NAC 445B.303, within 180 calendar days after the official date of submittal of an application for a Class I operating permit or for the revision of a Class I operating permit, the director shall make a preliminary determination to issue or deny the operating permit or the revision of the operating permit. The director shall give preliminary notice of his intent to issue or deny the operating permit or the revision of the operating permit within 180 calendar days after the official date of submittal.

3. Within 10 working days after the receipt of an application for a minor revision of a Class I operating permit, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine the application to be incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director determines that the application is incomplete within 10 working days after the date on which the director receives the application, the official date of submittal is the date on which the director determines that the application is complete~~[-]~~ or 11 working days after the date of receipt, whichever is earlier.

4. Except as otherwise provided in NAC 445B.319 and 445B.320, within 10 working days after the date of receipt of an application for a Class II *or* Class III operating permit or for the revision of a Class II *or* Class III operating permit, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director determines that the application is incomplete within 10 working days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier. ~~[Within 60 days after the official date of submittal, the]~~ The director shall issue or deny such an operating permit or the revision of such an operating permit~~[-]~~

- (a) For a Class II operating permit, within 60 days after the official date of submittal of the application.*
- (b) For a Class III operating permit, within 30 days after the official date of submittal of the application.*

5. If, after the official date of submittal, the director discovers that additional information is required to act on ~~the~~ **an** application, the director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.395, inclusive~~-, and sections 2, 3 and 4 of this regulation.~~ The applicant must provide in writing any additional information that the director requests within the time specified in the request of the director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the director on the application submitted to the director. ~~[pursuant to subsection 1, 2 or 10.]~~

6. The director's review and preliminary intent to issue or deny a Class I operating permit and the proposed conditions for the operating permit must be made public and maintained on file with the director during normal business hours at 333 West Nye Lane, Carson City, Nevada, and in the air quality region where the source is located for 30 calendar days to enable public participation and comment and a review by any affected states.

7. ~~The~~ **For Class I operating permits, the** director shall:

(a) Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the stationary source is located or in a state publication designed to give general public notice;

(b) Provide written notice to:

(1) Persons on a mailing list developed by the director, including those persons who request in writing to be included on the list; and

(2) Any affected state;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public and affected states;

(d) Provide a copy of the director's review of the application, the director's preliminary intent to issue or deny the operating permit and the proposed operating permit to the administrator; and

(e) Establish a 30-day period for public comment.

8. ~~Except as otherwise provided in NAC 445B.321, the~~ **The** provisions of subsections 6 and 7 do not apply to an administrative amendment to a **Class I operating** permit made pursuant to NAC 445B.319, a change without revision to a **Class I operating** permit made pursuant to NAC 445B.320 or a minor revision of a Class I operating permit made pursuant to NAC 445B.321.

9. The notice required **for a Class I operating permit** pursuant to subsection 7 must identify:

(a) The affected facility and the name and address of the applicant;

(b) The name and address of the authority processing the operating permit;

(c) The activity or activities involved in the operating permit and the emissions change involved in any revision of the operating permit;

(d) The name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the operating permit, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the operating permit and which are relevant to the determination of the issuance of the operating permit; and

(e) A brief description of the procedures for public comment and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing.

10. All comments on the director's review and preliminary intent for *the* issuance or denial *of a Class I operating permit* must be submitted in writing to the director within 30 calendar days after the public announcement. The director shall give notice of any public hearing at least 30 days before the date of the hearing. The director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

11. Except as otherwise provided in subsection 12 and NAC 445B.319, 445B.320 and 445B.321, within 12 months after the official date of submittal of a Class I-B application, the director shall issue or deny the application for an operating permit or for a revision of the operating permit. The director shall make his decision by taking into account written comments from the public, affected states, and the administrator and the comments made during public hearings on the director's review and preliminary intent for issuance or denial, information submitted by proponents of the project and the effect of such a facility on the maintenance of the state, and national ambient air quality standards contained in NAC 445B.391 and the control strategy contained in the air quality plan. The director shall send a copy of the final *operating* permit to the administrator.

12. For stationary sources subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, adopted pursuant to NAC 445B.221, the director shall issue or deny an application for an operating permit, or for the revision or renewal of such an operating permit, within 12 months after receiving a complete application.

13. The director shall not issue an operating permit, or a revision of or a renewal of an operating permit, if the administrator objects to its issuance in writing within 45 days after the administrator's receipt of the proposed conditions for the operating permit and the necessary supporting information.

14. Any person may petition the administrator to request that he object to ~~an~~ *a Class I* operating permit as provided in 40 C.F.R. § 70.8(d).

15. If the administrator objects to the issuance of ~~an~~ *a Class I* operating permit of his own accord or in response to a public petition, the director shall submit revised proposed conditions for the operating permit in response to the objection within 90 days after the date on which he is notified of the objection.

16. If construction will occur in one phase, an operating permit or the revision of an operating permit for a new or modified stationary source, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if construction is not commenced within 18 months after the date of issuance thereof or construction of the facility is delayed for 18 months after initiated. The director may extend the date on which the construction ~~may~~ *may* be commenced upon a showing that the extension is justified.

17. If construction will occur in more than one phase, the projected date of the commencement of construction of each phase of construction must be approved by the director. An operating permit or the revision of an operating permit for a new or modified stationary source, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if the initial phase of construction is not commenced within 18 months after the projected date of the commencement of construction approved by the director. The director may extend only the date on which the initial phase of construction may be commenced upon a showing that the extension is justified.

Sec. 14. NAC 445B.303 is hereby amended to read as follows:

445B.303 1. During the first 3 years of the program, the times set forth in subsections 1 and 11 of NAC 445B.300 for the issuance of an operating permit do not apply to Class I-A applications.

2. The director shall:

(a) Issue Class I operating permits for one-third of the applications received from existing stationary sources each year for 3 years.

(b) Issue Class I operating permits for all affected sources no later than December 31, 1997.

(c) Process Class I-B applications and applications for Class II **and Class III** operating permits in accordance with the times set forth in NAC 445B.300.

Sec. 15. NAC 445B.313 is hereby amended to read as follows:

445B.313 1. For the purposes of determining the effects of Class II **and Class III** sources on the quality of ambient air pursuant to NAC 445B.308 to 445B.313, inclusive, the heat input is the aggregate heat content of all combusted fuels, or the guaranteed maximum input of the manufacturer or designer of the equipment, whichever is greater. The total heat input of all fuel-burning units in a plant or on the premises must be used to determine the maximum amount of a regulated air pollutant which may be emitted.

2. For the purposes of determining the effects of Class I sources on the quality of ambient air and determining the applicability of a federally enforceable standard or requirement to an emission unit, the heat input will be determined by using the appropriate method of the American Society for Testing **and** Materials (ASTM) contained in 40 C.F.R. Parts 51, 52, 60 and 61.

Sec. 16. NAC 445B.320 is hereby amended to read as follows:

445B.320 1. The owner or operator of a stationary source operating in compliance with an operating permit may make changes which contravene an express term of the operating permit without a revision of the operating permit if the changes do not:

(a) Constitute modifications pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive, or constitute a modification as that term is defined in NAC 445B.099;

(b) Violate any provision of NAC 445B.001 to 445B.395, inclusive, or any other applicable requirement; or

(c) Exceed the allowable emissions set forth in the operating permit for any emissions unit.

2. Any conditions of an operating permit that are requirements for monitoring, methods of testing, recordkeeping, reporting or compliance certification may not be changed pursuant to this section.

3. For each change made pursuant to this section, the holder of the operating permit shall provide a written notification to the director and the administrator at least 7 days before making the change. This notification must include:

(a) A detailed description of the change;

(b) The date on which the change will occur;

(c) Any change in emissions, as determined in accordance with NAC 445B.239;~~and~~

(d) Any condition of the operating permit which will no longer apply because of the change~~and~~; **and**

(e) For a change that includes the trading of emissions made pursuant to paragraph (h) of subsection 1 of NAC 445B.316, a detailed description of how the increase or decrease in emissions, or both, resulting from

the change complies with the terms and conditions of the operating permit.

4. The holder of the operating permit, the director and the administrator, as appropriate, shall attach a copy of the written notification to his respective copy of the permit.

Sec. 17. NAC 445B.323 is hereby amended to read as follows:

445B.323 1. All operating permits must be renewed 5 years after the date of issuance.

2. A ~~{completed}~~ **complete** application for renewal of an operating permit must be submitted to the director on the form provided by ~~{him}~~ **the director** with the appropriate fee ~~{at}~~:

(a) *At least 180 calendar days, but no earlier than 18 months, before the expiration date of the current operating permit for Class I stationary sources ~~{, or at}~~;*

(b) *At least 30 calendar days before the expiration date of the current operating permit for Class II stationary sources ~~{, or at}~~; or*

(c) *At least 30 calendar days before the expiration date of the current operating permit for Class III stationary sources.*

3. Applications for renewal must comply with all requirements for the issuance of an initial operating permit~~{, as specified in NAC 445B.300.}~~

4. If an application for renewal is submitted ~~[at least 180 calendar days before the expiration of the current permit for Class I sources, or at least 30 days before the expiration of the current permit for Class II sources,]~~ **in accordance with subsection 2**, the stationary source may continue to operate *under the conditions of the existing operating permit* until the *operating* permit is renewed or the application for renewal is denied. ~~[The continued operation of the stationary source must comply with the conditions of the expired permit. If a request]~~ *If an application* is not submitted in ~~{a timely manner.}~~ **accordance with subsection 2**, the stationary source may be required to cease operation when the *operating* permit expires, and may not recommence the operation until the *operating* permit is renewed.

5. The fee for the renewal of an operating permit is as specified in NAC 445B.327.

Sec. 18. NAC 445B.327 is hereby amended to read as follows:

445B.327 1. Except as otherwise provided in subsection 2, the fees for an operating permit are as follows:

(a) Class I operating permit.....	\$30,000
(b) Significant revision of a Class I operating permit.....	20,000
(c) Minor revision of a Class I operating permit.....	5,000
(d) Renewal of a Class I operating permit.....	5,000
(e) Class II operating permit.....	3,000
(f) Revision of a Class II operating permit.....	2,000
(g) Renewal of a Class II operating permit.....	2,000
(h) Class II general permit.....	400
(i) Class III operating permit.....	300
(j) Revision of a Class III operating permit.....	200
(k) Renewal of a Class III operating permit.....	250
(l) Administrative amendment of an operating permit.....	200

An applicant must pay the entire fee when he submits an application to the director.

2. The fee to revise an operating permit so that the *operating* permit is consistent with any guidelines established by the division *of environmental protection of the state department of conservation and natural resources* pursuant to NAC 445B.255 is \$1,000. An applicant must pay the entire fee when he submits an application to the director.

3. If a stationary source is subject to participation in the program for the prevention of significant deterioration of air quality pursuant to 40 C.F.R. § 52.21, as incorporated by reference by NAC 445B.221, the owner or operator of that stationary source must obtain an operating permit. The fees for such an operating permit are as follows:

- (a) ~~Permit~~ **Operating permit** for a stationary source subject to the program for the prevention of significant deterioration of air quality.....\$50,000
- (b) Revision of ~~a~~ **an operating** permit for a stationary source subject to the program for the prevention of significant deterioration of air quality to authorize a major modification of the stationary source\$50,000

An applicant must pay the entire fee when he submits an application to the director.

4. Except as otherwise provided in this subsection, the annual fee based on emissions for ~~any~~ **a** stationary source is \$5.60 per ton times the total tons of each regulated pollutant ~~[, except carbon monoxide,]~~ emitted during the preceding calendar year. ***The annual fee based on emissions does not apply to:***

- (a) Emissions of carbon monoxide; or***
- (b) Class III stationary sources.***

5. To determine the fee set forth in subsection 4:

(a) Emissions must be calculated using:

- (1) The emission unit's actual operating hours, rates of production and in-place control equipment;
- (2) The types of materials processed, stored or combusted; and
- (3) Data from:
 - (I) A test for emission compliance;
 - (II) A continuous emission monitor;
 - (III) The most recently published issue of *Compilation of Air Pollutant Emission Factors*, EPA Publication No. AP-42; or

(IV) Other emission factors or methods which the director has validated; or

(b) If paragraph (a) does not apply to a stationary source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that stationary source.

6. The annual fee for maintenance of a stationary source is:

- (a) For a Class I source\$12,500
- (b) For a Class II source that has the potential to emit 50 tons or more per year of any one regulated air pollutant except carbon monoxide..... \$3,000
- (c) For a Class II source that has the potential to emit 25 tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide \$1,000

- (d) For a Class II source that has the potential to emit less than 25 tons per year of any one regulated air pollutant except carbon monoxide..... \$250
- (e) ***For a Class III source*** **\$250**
- (f) For a surface area disturbance \$250
7. The ***state*** department ***of conservation and natural resources*** shall collect all fees required pursuant to subsections 4 and 6 not later than July 1 of each year.
8. The fees required pursuant to subsections 4 and 6 are due and payable to the “Nevada State Treasurer, Environmental Protection” within 45 days after the date of the invoice.

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